

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 225, between lines 3 and 4, begin a new paragraph and insert:
- 2 "SECTION 214. IC 36-1-8-10.5, AS AMENDED BY P.L.1-2005,
- 3 SECTION 231, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2008]: Sec. 10.5. (a) This section does not
- 5 apply to the following:
- 6 (1) An elected or appointed officer.
- 7 (2) An individual described in IC 20-26-4-11.
- 8 (b) **Subject to IC 36-1-8.5**, an employee of a political subdivision
- 9 may:
- 10 (1) be a candidate for any elected office and serve in that office if
- 11 elected; or
- 12 (2) be appointed to any office and serve in that office if appointed;
- 13 without having to resign as an employee of the political subdivision."
- 14 Page 226, between lines 8 and 9, begin a new paragraph and insert:
- 15 "SECTION 216. IC 36-1-8.5 IS ADDED TO THE INDIANA CODE
- 16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2008]:
- 18 **Chapter 8.5. Employees of a Political Subdivision Holding**
- 19 **Elected Office**
- 20 **Sec. 1. (a) This chapter applies to an employee who, after**
- 21 **December 31, 2008, assumes an elected office that has any legal**
- 22 **authority to propose or approve the budget of the government**
- 23 **agency that employs the employee.**
- 24 **(b) This chapter does not apply to an employee who, on January**

1 **1, 2009, holds an elected office that has any legal authority to**
 2 **propose or approve the budget of the government agency that**
 3 **employs the employee, as long as the individual continues to:**

4 **(1) hold; or**

5 **(2) be reelected to;**

6 **the elected office the individual held on December 31, 2008.**

7 **Sec. 2. As used in this chapter, "employee" refers to an**
 8 **employee of a political subdivision.**

9 **Sec. 3. As used in this chapter, "government agency" refers to**
 10 **an agency of a political subdivision.**

11 **Sec. 4. An employee is considered to have resigned as an**
 12 **employee of a government agency when the individual assumes an**
 13 **elected office that has any legal authority to propose or approve**
 14 **the budget of the government agency that employs the employee."**

15 Page 234, between lines 22 and 23, begin a new paragraph and
 16 insert:

17 "SECTION 226. IC 36-4-4-2 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The powers of a
 19 city are divided between the executive and legislative branches of its
 20 government. A power belonging to one (1) branch of a city's
 21 government may not be exercised by the other branch.

22 (b) **Subject to IC 36-1-8.5**, a city employee other than an elected or
 23 appointed public officer may:

24 (1) be a candidate for any elective office and serve in that office
 25 if elected; or

26 (2) be appointed to any office and serve in that office if appointed;
 27 without having to resign as a city employee."

28 Page 243, between lines 21 and 22, begin a new paragraph and
 29 insert:

30 "SECTION 237. IC 36-8-3-12 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. **Subject to**
 32 **IC 36-1-8.5**, members of the safety board and members of any
 33 township, town, or city (including a consolidated city) police
 34 department, fire department, or volunteer fire department (as defined
 35 by IC 36-8-12-2) may:

36 (1) be candidates for elective office and serve in that office if
 37 elected;

38 (2) be appointed to any office and serve in that office if appointed;
 39 and

40 (3) as long as they are not in uniform and not on duty, solicit votes
 41 and campaign funds and challenge voters for the office for which
 42 they are candidates.

43 SECTION 238. IC 36-8-10-11 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The sheriff may
 45 dismiss, demote, or temporarily suspend a county police officer for
 46 cause after preferring charges in writing and after a fair public hearing

before the board, which is reviewable in the circuit court. Written notice of the charges and hearing must be delivered by certified mail to the officer to be disciplined at least fourteen (14) days before the date set for the hearing. The officer may be represented by counsel. The board shall make specific findings of fact in writing to support its decision.

(b) The sheriff may temporarily suspend an officer with or without pay for a period not exceeding fifteen (15) days, without a hearing before the board, after preferring charges of misconduct in writing delivered to the officer.

(c) A county police officer may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the officer's probationary period, except as provided in this section.

Subject to IC 36-1-8.5, an officer may:

- (1) be a candidate for elective office and serve in that office if elected;
- (2) be appointed to an office and serve in that office if appointed;
- and
- (3) except when in uniform or on duty, solicit votes or campaign funds for the officer or others.

(d) The board has subpoena powers enforceable by the circuit court for hearings under this section. An officer on probation may be dismissed by the sheriff without a right to a hearing.

(e) An appeal under subsection (a) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the officer, the decision of the board, and a demand for the relief asserted by the officer. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs only if the court finds that the board's decision should be affirmed. The bond must be approved as bonds for costs are approved in other cases. The county must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county. Neither the board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(f) All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the board was made. Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the board before the appeal is filed, if requested. The court shall review the record and decision of the board on appeal.

(g) The court shall make specific findings and state the conclusions

1 of law upon which its decision is made. If the court finds that the
2 decision of the board appealed from should in all things be affirmed,
3 its judgment should so state. If the court finds that the decision of the
4 board appealed from should not be affirmed in all things, then the court
5 shall make a general finding, setting out sufficient facts to show the
6 nature of the proceeding and the court's decision on it. The court shall
7 either:

8 (1) reverse the decision of the board; or

9 (2) order the decision of the board to be modified.

10 (h) The final judgment of the court may be appealed by either party.
11 Upon the final disposition of the appeal by the courts, the clerk shall
12 certify and file a copy of the final judgment of the court to the board,
13 which shall conform its decisions and records to the order and
14 judgment of the court. If the decision is reversed or modified, then the
15 board shall pay to the party entitled to it any salary or wages withheld
16 from the party pending the appeal and to which the party is entitled
17 under the judgment of the court.

18 (i) Either party shall be allowed a change of venue from the court or
19 a change of judge in the same manner as such changes are allowed in
20 civil cases. The rules of trial procedure govern in all matters of
21 procedure upon the appeal that are not otherwise provided for by this
22 section.

23 (j) An appeal takes precedence over other pending litigation and
24 shall be tried and determined by the court as soon as practical.".

25 Renumber all SECTIONS consecutively.

(Reference is to HB 1001 as printed January 17, 2008.)

Representative Hinkle